

1
2
3
4
5
6
7
8
9

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

10 NORRIS LEE,) 1:02-cv-05037-LJO-GSA-PC
11 Plaintiff,) ORDER TO SHOW CAUSE WHY
12 vs.) DEFENDANT HOUGH'S MOTION TO
13 C/O HOUGH, et al.,) DISMISS SHOULD NOT BE GRANTED FOR
14 Defendants.) PLAINTIFF'S FAILURE TO FILE OPPOSITION
15) (Doc. 70.)
16) RESPONSE DUE IN TWENTY DAYS

I. BACKGROUND

Norris Lee ("Plaintiff") is a state prisoner proceeding pro se with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on January 8, 2002. (Doc. 1.) This action now proceeds on the Second Amended Complaint filed by Plaintiff on March 23, 2010, against defendants Garcia, Hough, and White.¹ (Doc. 36.)

On March 15, 2011, defendant Hough filed a motion to dismiss this action for Plaintiff's failure to exhaust administrative remedies against him. (Doc. 70.) Plaintiff was required to file an opposition or a statement of non-opposition to the motion within twenty-one days, but failed to do so. Local Rule 230(l). On May 9, 2011, the Court issued an order requiring Plaintiff to file an opposition, or statement of non-opposition, to defendant Hough's motion to dismiss, within thirty days. (Doc. 83.) The thirty

¹All other claims and defendants were dismissed from this action by the Court on August 26 2010, based on Plaintiff's failure to state a claim. (Doc. 45.)

28

1 day time period has passed, and Plaintiff has not filed an opposition or otherwise responded to the
2 Court's order.

3 Local Rule 230(l) provides that the failure to oppose a motion "may be deemed a waiver of
4 any opposition to the granting of the motion..." The Court deems Plaintiff's failure to oppose
5 defendant Hough's motion to dismiss as a waiver and finds that the motion should be granted on that
6 basis.

7 **II. ORDER TO SHOW CAUSE**

8 Within twenty days from the date of service of this order, Plaintiff shall show cause why
9 defendant Hough's motion to dismiss should not be granted based on Plaintiff's failure to oppose the
10 motion.

11 In accordance with the above, IT IS HEREBY ORDERED that:

- 12 1. Within twenty days from the date of service of this order, Plaintiff shall file a written
13 response to the Court, showing cause why defendant Hough's motion to dismiss
14 should not be granted for Plaintiff's failure to oppose the motion;
- 15 2. In the alternative, Plaintiff may file an opposition to defendant Hough's motion to
16 dismiss within twenty days; and
- 17 3. Plaintiff's failure to comply with this order shall result in the dismissal of defendant
18 Hough from this action without further notice.

19
20 IT IS SO ORDERED.

21 **Dated: July 7, 2011**

22 **/s/ Gary S. Austin**
23 UNITED STATES MAGISTRATE JUDGE

24

25

26

27

28